

## **EXHIBIT 6**

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5 IN RE: TERRORIST :  
:

7 SEPTEMBER 11, 2001 : (GBD) (SN)

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10 Friday, October 4, 2019

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12 THIS TRANSCRIPT CONTAINS

13 CONFIDENTIAL MATERIAL

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1	- - -		
2	I N D E X		
3	- - -		
4	Testimony of:		
5	JUDGE ALAN FINE	PAGE	
6	By Mr. Goldman	9, 131	
	By Mr. Cottreau	76, 143	
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9	E X H I B I T S		
10	- - -		
	FINE		
11	EXHIBIT NO.	DESCRIPTION	PAGE
12	269	Notice of Oral Deposition of Alan Fine	10
13	270	LexisNexis printout of State Department Briefing Briefer: James Foley dated July 8, 1999 PEC-DIB000803 - PEC-DIB000812	24
14	271	Composite of documents DIB_003159 - DIB_003177 DIB_003187 - DIB_003219 DIB_005640 DIB_003221 - DIB_003241	38
15	272	Copy of faxed article to Alan Fine, Esq. from Rob Ellison dated 8th July, 1999 DIB_003159 - DIB_003160	97
16	273	Copy of billing records DIB_003217 - DIB_003228	98
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1                   A.     These are the second and the third  
2     articles.

3                   Q.     The first article?

4                   A.     Was attached to a telefax that I  
5     received the morning of July 12th. It was from  
6     Rob Ellison. It was from a London paper. I  
7     think it -- at least an English paper. I'm not  
8     sure if it was a London paper.

9                   Q.     You indicated a couple of minutes  
10   ago that you had two assignments. One was to  
11   make inquiries with the U.S. government or  
12   other government officials, and the second, to  
13   explore a potential defamation claim. Did I  
14   state that correctly?

15                  A.     Yes. And in connection with the  
16   defamation claim, to try to correct the  
17   information which we believed to be false.

18                  Q.     Let's deal with the first part of  
19   your assignment, the inquiries with U.S.  
20   government officials. What steps did you take  
21   with regard to inquiring as to the veracity of  
22   the allegations contained?

23                  A.     We -- I called the State  
24   Department, attempting to reach Christopher

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1 Bush and Joe Reap. I was able to get  
2 Christopher Bush on the phone.

3 Q. Could you spell the name of the  
4 second person, if you could?

5 A. I believe it's R-E-A-P.

6 Q. Okay.

7 A. And I was referred to a  
8 Mr. Kashkett --

9 Q. Could you spell that, if you could?

10 A. K-A-S-H-K-E-T-T.

11 -- as the person who would have the  
12 most knowledge regarding any facts that could  
13 possibly substantiate the allegations that were  
14 made in the press reports.

15 Q. Why did you reach out to those  
16 particular individuals -- the first two  
17 particular individuals?

18 A. The press conference that was given  
19 was by the Department of State, I believe a  
20 Mr. Foley, and so we reached out to the State  
21 Department since that's who was the one making  
22 the statements. And Mr. Kashkett was a Middle  
23 Eastern -- I think it was on the Middle Eastern  
24 desk, and he was a counterterrorism expert,

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1 A. Yes.

2 Q. Was that by telephone or  
3 electronically?

4 A. Telephone.

5 Q. And what, if anything, did that  
6 individual tell you?

7 A. He said that we wouldn't find  
8 anything in the name of Osama bin Laden and  
9 that it would not be in any international wire  
10 transfers, that it was either in domestic wire  
11 transfers or withdrawals from accounts, through  
12 other names.

13 Q. Did he give you the other names?

14 A. He did not.

15 Q. Did you ask him for the other  
16 names?

17 A. Yes. That was the purpose for my  
18 phone call. The bank had already done a search  
19 for any accounts, any transfers from, any  
20 transfers to Osama bin Laden with negative  
21 results, meaning there was nothing. So we were  
22 looking, what are the facts that support these  
23 allegations? And I was referred to the guy who  
24 was supposed to know, and he either didn't know

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1 or declined to tell me.

2 Q. Do you know which it was, that he  
3 didn't know or whether he declined to tell you?

4 A. I do not.

5 Q. Did he tell you that, I can't give  
6 you that information, or did he tell you that,  
7 I don't know the information?

8 A. He didn't say either one. He just  
9 didn't answer.

10 Q. When did the bank look to see if  
11 there were any accounts in the name of Osama  
12 bin Laden?

13 A. It was in two parts. In connection  
14 with the fraud and embezzlement, the bank had  
15 done an initial search to see if any of the  
16 monies had any connection to any Islamic  
17 institutions and whether or not they had any  
18 connection to Osama bin Laden. The bank was  
19 trying to figure out why this happened, how it  
20 happened, where the money went. And there were  
21 negative results, meaning there was no contact  
22 in any way, shape, or form with Osama bin Laden  
23 then. And either at that time or both at that  
24 time and immediately after the article came

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1 out, Mr. Ellison conducted a search to see if  
2 there were any accounts in the name of Osama  
3 bin Laden, prior to my learning about it on  
4 July 12th when I came into the office.

5 Q. So that was prior to your learning  
6 about it and obviously prior to your call with  
7 the State Department?

8 A. Yes.

9 Q. Do you know, as part of the broader  
10 search, the embezzlement search, what names the  
11 bank used for its search?

12 A. I do not, other than "Osama bin  
13 Laden."

14 Q. Who handled that search, the  
15 broader -- I'll use the word "broader search"?

16 A. Rob Ellison, who had direct access  
17 with terminal access in his office to the  
18 bank's records.

19 Q. So it was Mr. Ellison who conducted  
20 that search, or his subordinates? Or do you  
21 know?

22 A. My understanding is that he did it.  
23 Any assistance that he needed was provided.  
24 That was my understanding at all times.

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1 Just a little context, at the time  
2 he was hired, the bank had been, in effect,  
3 intervened in, and the government was calling  
4 the shots rather than a private owner. So he  
5 was hired with the mandate to find out what  
6 happened, how it happened, the mechanics, and  
7 then to try to get all the money back.

8 Q. Can you please elaborate a little  
9 bit more as to the allegations, the substance  
10 of this alleged embezzlement? You said it was  
11 several hundred million dollars?

12 A. Yeah, 242, 244 million dollars.

13 Q. That's real money.

14 A. It's a whole lot of money, and it  
15 wiped out the equity of the people that owned  
16 the bank, or a large portion of it.

17 Q. So the government of the UAE  
18 intervened in some manner as a result of that  
19 episode?

20 A. That's correct.

21 Q. And when you say "intervened," do  
22 you mean assumed management control? Do you  
23 mean ownership control? Do you mean  
24 supervision? Or something else?

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1                   A.    There was a change in ownership.  
2    My understanding is, the government took a  
3    minority ownership position. But the  
4    management was answerable directly to the  
5    Central Bank and the Ruler or the Ruler's  
6    office.

7                   Q.    So during all times that you were  
8    dealing with the bank and Mr. Ellison, the  
9    control or supervision of the bank was the  
10   government?

11                  A.    That's my understanding, yes.

12                  Q.    And when did this first take place?  
13    When did the government take that position, to  
14    the best of your knowledge?

15                  A.    I believe it was early 1998. The  
16    Central Bank was auditing on a daily basis  
17    during a period of time in '98, maybe even into  
18    1999.

19                  Q.    And throughout your relationship  
20    with the bank with regard to this -- these two  
21    matters, the bank was under the control and  
22    supervision of the government of the UAE?

23                  A.    Yes.

24                  Q.    Let's get a bit deeper, if we can,

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1 into the allegations of this embezzlement.  
2 What was the nature of the allegation, besides  
3 240 million dollars missing?

4 A. An individual from outside the  
5 bank, who I'll call Sissoko -- he has a very  
6 long name, but... Sissoko -- influenced the  
7 president of the bank, who was the head of the  
8 Dubai branch, to wire-transfer, at the  
9 direction of Sissoko, over two hundred million  
10 dollars. Part of the total loss was the  
11 covering of credit card charges, but it was  
12 almost all wire transfers.

13 Q. And do you have an approximate  
14 spelling for the court reporter?

15 A. S-I-S-S-O-K-O.

16 Q. And did you ultimately determine  
17 where that money went?

18 A. We were able to determine with  
19 precision the initial place where it was  
20 transferred to, and a very large portion of our  
21 job was tracing it after that, and yes, we were  
22 able to find that it came to rest in the  
23 ownership of various pieces of real estate, was  
24 given away as gifts either in cash or in

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1 starting an airline.

2 Q. Okay. And where was he based?

3 A. In Mali.

4 Q. Okay. Was action ever taken as a  
5 result -- legal action, either civil or  
6 criminal, with regard to these  
7 misappropriations?

8 A. Yes.

9 Q. And where did that take place?

10 A. We had a lawsuit in Miami. There  
11 was a lawsuit in -- there were multiple  
12 lawsuits in New York. There were attempts to  
13 have him extradited that were unsuccessful.  
14 Right now I can't remember if we initiated  
15 litigation in other places.

16 Q. And that's fair, sir.

17 You indicated there were inquiries  
18 made if this had anything to do with any sort  
19 of -- I'll use the word loosely -- Islamic  
20 group?

21 A. Mm-hmm.

22 Q. Why were those inquiries made?

23 A. The genesis of the relationship  
24 between Sissoko and Mohammed Ayyoub, who was

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1                   A.    Or -- it's possible that it was the  
2   Emir of the UAE.  But I thought it was  
3   referring to Dubai.

4                   Q.    Looking at the next paragraph,  
5   quote, As you know, we have been in regular  
6   touch with U.S. Customs and with the Justice  
7   Department and no mention has been made of any  
8   of these issues, closed quote.

9                   In what regard was there regular  
10   communications with Justice and Customs?

11                  A.    So Mr. Sissoko was charged, and I  
12   believe he pled guilty, to the falsification of  
13   export certificates on two helicopters that he  
14   was trying to move from Miami to Africa, I  
15   think Mali specifically, and so the Justice  
16   Department prosecuted him but the investigation  
17   was through Customs because that's who controls  
18   the export certificates investigations.

19                  Q.    And you were the point person on  
20   those communications?

21                  A.    I was involved.  I would believe  
22   that Mr. Ellison had some direct communication  
23   with them other than my direct communication  
24   with them.

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1 Q. Skipping down a couple of  
2 paragraphs, referring to a KPMG investigation.

3 A. Yeah.

4 Q. What was that investigation, sir,  
5 if you know?

6 A. Yeah. Once the fraud and  
7 embezzlement were discovered, the bank not only  
8 undertook to understand all of the facts of  
9 where the money went in order to recover it,  
10 but also to find out what at the bank needed to  
11 be cleaned up in terms of internal controls so  
12 that this type of thing couldn't happen in the  
13 future. There was also a look-back at the  
14 firm's auditor during the period of time that  
15 the transfers took place because it was never  
16 flagged in any way or brought to the attention  
17 of any management by the auditors.

18 Q. Turning to the next page, 3160  
19 Bates stamp.

20 A. Yep.

21 Q. Is that the first article that you  
22 had referred to earlier in your testimony?

23 A. Exactly. Yes, it is. This was  
24 page 2 of the fax. Page 1 was the letter we

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1 Q. Who was there on behalf of DIB?

2 MR. COTTREAU: Objection,

3 mischaracterizes prior testimony.

4 A. I don't think there was anyone who  
5 was there on behalf of DIB.

6 Q. Okay. But somebody relayed this  
7 information --

8 A. Yes.

9 Q. -- to Mr. Ellison?

10 A. So when he was hired, his coming  
11 into the bank required approval from the  
12 Ruler's court or the Ruler's office or the  
13 Ruler himself. I don't know specifically. But  
14 it was beyond the bank. And he had worked for  
15 banks in that part of the world previously, and  
16 he had other contacts outside the bank.

17 Q. Got you. With regard -- you had  
18 indicated that there was two accounts that were  
19 then subsequently closed?

20 A. Yes.

21 Q. Can you elaborate a bit more on  
22 that?

23 A. I don't think so.

24 Q. What do you know?

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1 behalf of the UAE or Dubai who may have been  
2 involved?

3 A. No.

4 MR. GOLDMAN: Off the record.

5 (A discussion was held off the  
6 record.)

7 MR. GOLDMAN: Go back on the  
8 record.

9 Steve?

10 MR. COTTREAU: Thank you.

11 EXAMINATION

12 BY MR. COTTREAU:

13 Q. Judge Fine, where did you grow up?

14 A. Fort Lauderdale, Florida.

15 Q. And where did you attend high  
16 school?

17 A. Nova High School.

18 Q. And where did you go to college?

19 A. Princeton University.

20 Q. Did you play any sports in college?

21 A. I did.

22 Q. And what did you do in college with  
23 respect to athletic activity?

24 A. I was on the swim team.

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1 Q. Varsity swim team?

2 A. Yes.

3 Q. For how long?

4 A. Four years.

5 Q. Did you graduate from Princeton  
6 University?

7 A. Yes.

8 Q. What year did you graduate in?

9 A. 1979.

10 Q. Did you have a degree in connection  
11 with your graduation?

12 A. Yes.

13 Q. What was the degree?

14 A. AB. And it's usually BA, but at  
15 Princeton it's an AB.

16 Q. And what was your major?

17 A. Politics and American studies.

18 Q. Did you receive any special honors  
19 from Princeton University?

20 A. Yes.

21 Q. What did you receive?

22 A. I graduated magna cum laude, and I  
23 received the Willard Thorp -- I was a co-winner  
24 of the Willard Thorp Thesis Prize for -- in

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1 American studies.

2 Q. After you graduated from Princeton  
3 University, did you go to law school or did you  
4 work?

5 A. Both, but I -- I worked for one  
6 year after law school -- after college, and  
7 then I went to law school.

8 Q. And where did you work for one year  
9 after you graduated from Princeton University?

10 A. The Nuclear Regulatory Commission.

11 Q. Is that part of the U.S.  
12 government?

13 A. Yes.

14 Q. So you were a U.S. government  
15 employee after graduating from Princeton  
16 University?

17 A. Yes.

18 Q. Where did you go to law school?

19 A. The University of Florida.

20 Q. Did you graduate from University of  
21 Florida law school?

22 A. Yes.

23 Q. And when did you graduate?

24 A. 1983.

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1 A. Three.

2 Q. Are you a Muslim?

3 A. No.

4 Q. What religion are you?

5 A. I'm Jewish.

6 Q. Do you belong to a synagogue?

7 A. I do.

8 Q. What synagogue do you belong to?

9 A. Temple Beth Am.

10 Q. How long have you been a member of

11 Temple Beth Am?

12 A. About 25 years.

13 Q. Have you ever held any positions at  
14 the temple?

15 A. Yes.

16 Q. What positions are those?

17 A. I was temple counsel, which in  
18 effect is general counsel for the temple, from  
19 2009 until December 2012. And that position  
20 made me a member of the executive board. And  
21 then I believe I was off the board -- I may  
22 have been asked to stay on from December of '12  
23 to May of '13, but I'm not sure. And then in  
24 May of '13, I came back on the board as a

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1 effort to make sure that money was as wisely  
2 spent as possible.

3 Q. Did you ever serve as the  
4 externship director for child welfare at FIU?

5 A. Yes, I did.

6 Q. And what was that job?

7 A. I was, in effect, a professor for a  
8 seminar for law students on the topic of child  
9 welfare.

10 Q. And what is FIU?

11 A. Florida International University.

12 Q. Is that a local college here?

13 A. And law school, yes, and med  
14 school.

15 Q. What is your current job?

16 A. I'm a circuit court judge.

17 Q. And what is a circuit court judge?

18 A. I'm a trial-level judge. Circuit  
19 court is the court that has jurisdiction -- in  
20 civil cases, there's a minimum threshold, and  
21 then it's an unlimited amount in general  
22 jurisdiction. And the other divisions are the  
23 juvenile division, where I served on the  
24 dependency side for four years; criminal

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1 Q. You mentioned earlier that -- in  
2 response to a question by Mr. Goldman that you  
3 I think served for 28 years as a commercial  
4 litigator prior to becoming a judge?

5 A. Yes. My first year out of law  
6 school, I clerked for a federal district court  
7 judge, and then I joined a law firm, and then  
8 from that point on I was in private practice  
9 until February 1st of 2013.

10 Q. And what does it mean to be a clerk  
11 for a judge?

12 A. I was clerking for a federal  
13 district court judge, which is a trial-level  
14 judge. It's a full-time, paid position, doing  
15 research and writing for the judge, assisting  
16 in -- almost always on the civil cases. Even  
17 though the judge had a criminal docket, the law  
18 clerks worked the vast majority of the time  
19 helping review pleadings that had been filed  
20 and doing research and draft orders.

21 Q. And while you were a commercial  
22 litigator before you became a judge, did there  
23 come a time when you started your own law firm?

24 A. Yes.

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1 A. Yes.

2 Q. What was your understanding of what  
3 an Islamic bank was?

4 A. My principal understanding of the  
5 difference between an Islamic bank and any  
6 other bank is that the bank was not allowed to  
7 charge interest under Islamic law.

8 Q. And did there ever come a time when  
9 you did legal work for Dubai Islamic Bank?

10 A. Yes.

11 Q. And when did you begin working for  
12 DIB?

13 A. 1998.

14 Q. And what were you initially hired  
15 by DIB to do in 1998?

16 A. Assist the bank in tracing money  
17 that had been stolen from the bank, identifying  
18 sources of recovery and then pursuing those  
19 sources of recovery.

20 Q. And how did you come to the  
21 attention of Dubai Islamic Bank?

22 A. My former law partner, William  
23 Richey, was the one contacted by Rob Ellison,  
24 who was working for the bank, and he brought me

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1 in and we co-counseled the representation.

2 Q. And do you know how Bill Richey  
3 came to the attention of Dubai Islamic Bank?

4 A. My recollection is that there was a  
5 lawyer in London with whom Bill had worked that  
6 Mr. Ellison knew, and that that lawyer, whose  
7 first name is Tony but I can't remember the  
8 last name, that he referred Mr. Ellison to  
9 Bill.

10 Q. While you did legal work for Dubai  
11 Islamic Bank, who was your primary point of  
12 contact at Dubai Islamic Bank?

13 A. Rob Ellison.

14 Q. What was Rob Ellison's role at  
15 Dubai Islamic Bank?

16 A. He was hired to assist in the  
17 internal -- to be in charge of the  
18 investigation into what happened with this  
19 fraud and embezzlement, how did it happen, why  
20 did it happen, try to get the money back. That  
21 was my understanding of his initial role at the  
22 bank.

23 Q. Is the fraud and embezzlement that  
24 you just referred to generally referred to as

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1 the Sissoko fraud?

2 A. I call it the Sissoko fraud, but  
3 yes.

4 Q. Sissoko. At any point in time, did  
5 you ever learn any facts that the Sissoko fraud  
6 had anything to do whatsoever with terrorism?

7 A. No. And to the contrary.

8 Q. What's your understanding of  
9 Mr. Ellison's background or expertise?

10 A. That he had assisted numerous other  
11 financial institutions in identifying problems  
12 within the bank and pursuing -- in the event  
13 that there were losses, assisting the bank in  
14 putting together a legal team to go after the  
15 money.

16 Q. Did Rob Ellison have extensive  
17 knowledge about banking?

18 A. Yes.

19 Q. Did he understand bank records, in  
20 your experience?

21 A. Yes.

22 Q. Do you know when Rob Ellison began  
23 working for Dubai Islamic Bank?

24 A. Either late '97 or early '98 is my

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1 Q. And with respect to investigating  
2 the allegations in The New York Times and in  
3 other publications about Dubai Islamic Bank and  
4 a potential connection to Osama bin Laden, what  
5 is your understanding of Rob Ellison's  
6 authority to act for the bank?

7 A. In terms of conducting an  
8 investigation, unlimited. With regard to  
9 filing a lawsuit against The New York Times or  
10 even sending a demand letter, he sought -- I  
11 know he sought approval for those things.

12 Q. With respect to your work for Dubai  
13 Islamic Bank, did you receive all of your  
14 approvals from Rob Ellison?

15 A. Yes.

16 Q. Besides communicating in person and  
17 over the telephone, how else did you regularly  
18 communicate with Rob Ellison?

19 A. Telefax.

20 Q. Facsimile?

21 A. Yes.

22 Q. And what is a facsimile?

23 A. It's a form of telecommunications,  
24 it travels over the telephone lines and it

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1 Q. And what degree of confidence did  
2 you have in the work of Rob Ellison?

3 A. Complete confidence.

4 Q. You mentioned in a prior answer  
5 that Rob Ellison is now deceased?

6 A. Yeah.

7 Q. Do you recall approximately when he  
8 passed away?

9 A. In 2002.

10 Q. Do you know what he died of, what  
11 caused his death?

12 A. No. Other than to describe it as  
13 natural causes.

14 Q. After you were hired to look into  
15 the Sissoko fraud and embezzlement, did there  
16 ever come a time when your engagement with  
17 Dubai Islamic Bank expanded?

18 A. Yes.

19 Q. When was that?

20 A. In July 1999.

21 Q. And how did your engagement expand?

22 A. Mr. Ellison made me aware of a  
23 newspaper article that made allegations  
24 detrimental to the bank, and we started to

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1 investigate those allegations.

2 MR. COTTREAU: Can we take a break?

3 VIDEO OPERATOR: We are now going

4 off the video record. The time is

5 12:06.

6 (Recess from 12:06 p.m. until

7 12:17 p.m.)

8 (Exhibit Fine-272 marked for  
9 identification and attached to the  
10 transcript.)

11 VIDEO OPERATOR: We are now going  
12 back on the video record. The time is  
13 12:17.

14 BY MR. COTTREAU:

15 Q. Judge Fine, I'm going to show you  
16 what's been marked as Exhibit 272. It's a  
17 two-page document Bates stamped DIB\_003159 to  
18 3160. Ask you to take a look at this document  
19 and if you could tell me whether you recognize  
20 the document.

21 A. Yes, I do. It's the first two  
22 pages of Exhibit 271. But I also recognize it  
23 from before that.

24 Q. Do you recognize Exhibit 272 as a

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1 fax that you received from Rob Ellison on or  
2 about July '11, 1999?

3 A. Yes.

4 Q. And did you have an understanding  
5 as to whether this letter began the expansion  
6 of your representation for Dubai Islamic Bank?

7 A. Yes.

8 Q. And what was that expansion?

9 A. At the time of this fax,  
10 Mr. Ellison was aware of an article from a  
11 London paper that he attached as -- to the  
12 cover page and asking us to assist in  
13 investigating the allegations that were made in  
14 the article and to advise the bank accordingly.

15 Q. And did you accept that invitation  
16 to expand your engagement for Dubai Islamic  
17 Bank?

18 A. Yes.

19 (Exhibit Fine-273 marked for  
20 identification and attached to the  
21 transcript.)

22 BY MR. COTTREAU:

23 Q. Let me show you what's been marked  
24 as Exhibit 273. Ask you if you could take a

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1 connection to Osama bin Laden, did Bill Richey  
2 work on those matters with you?

3 A. Yes.

4 Q. When you received the fax at  
5 Exhibit 272 on July 12th, what do you recall  
6 doing in response?

7 A. The request in the telefax was that  
8 Mr. Ellison would appreciate my thoughts on the  
9 issue. So I called him and we spoke about it.  
10 And I reached out to lawyers that we were  
11 working with in Washington, D.C. We were  
12 working with them on the Sissoko matter, and  
13 because they were in D.C. and this information  
14 appeared to originate in D.C., I wanted to get  
15 their thoughts as well.

16 Q. Okay. Let me try to break that  
17 down. Do you recall -- what do you recall from  
18 your conversation with Rob Ellison about  
19 setting up a game plan on July 12th to  
20 investigate?

21 A. The main thing was to try to find  
22 out if there were any facts to support the  
23 allegations that had been made in the  
24 newspaper, and to get information that would

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1 assist the bank in continuing its investigation  
2 internally into those allegations.

3 Q. Did Mr. Ellison tell you anything  
4 about the facts on the ground as he understood  
5 it in Dubai in terms of whether the allegations  
6 were true or false?

7 A. Yes. He was adamant that they were  
8 false, that the bank had no relationship with  
9 Osama bin Laden, that the bank had  
10 cross-referenced all of the transactions  
11 involved in the Sissoko case with bin Laden's  
12 name and he did not show up on that, that that  
13 had been done maybe six months before I got  
14 started working -- well, some months before I  
15 got started working for the bank. And then as  
16 a result of this press release, done another  
17 check for that name in whatever variation of  
18 spellings it might be.

19 Q. And when you say "that name," you  
20 mean the name of Osama bin Laden?

21 A. Exactly.

22 Q. Did Rob Ellison tell you anything  
23 about whether the bank was willing to cooperate  
24 with the United States government when you

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1 spoke with him on July 12th?

2 A. Yes.

3 Q. What did he tell you?

4 A. Not only that the bank was willing  
5 to cooperate, but that I, on behalf of the  
6 bank, should extend the offer of cooperation to  
7 the government officials that I was going to  
8 speak to because that was part of getting the  
9 information from them, that we wanted to act on  
10 it. We took the allegation very seriously and  
11 wanted to deal with it.

12 Q. And I direct your attention to your  
13 billing records at Exhibit 273 on the second  
14 page. The page is marked DIB\_005640. There's  
15 a narrative in the middle of that page, a  
16 paragraph that describes some things that were  
17 done. Were those things that are described on  
18 page 5640 of Exhibit 273 actions taken by you?

19 A. Yes.

20 Q. And on what date did you take those  
21 actions?

22 A. Monday, July 12th.

23 Q. And what is the first action that's  
24 reflected in the entry on page 5640 of Exhibit

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1 273?

2 A. That I reviewed the article that  
3 Mr. Ellison sent.

4 Q. Is that the article in the London  
5 Times?

6 A. Yes. It's page 2 of the fax,  
7 Exhibit 272.

8 Q. What's the second task that you  
9 took on Monday, July 12th, 1999 as reflected in  
10 your billing records?

11 A. I called Mr. Ellison.

12 Q. And you recall that conversation?

13 A. Yes.

14 Q. And that's the one that you just  
15 detailed?

16 A. Yes.

17 Q. And what's the third action that  
18 you took on Monday, July 12th, as reflected in  
19 your billing records on page 2 of Exhibit 273?

20 A. The third action reflected in my  
21 records is a telephone conference with  
22 Christopher Bush at the United States  
23 Department of State in the public affairs  
24 office.

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1 Q. And do you know how Christopher  
2 Bush came to your attention?

3 A. I believe Mr. Richey is the one who  
4 suggested that I call him.

5 Q. And I'd just note that there's no  
6 conversation with Bill Richey on this billing  
7 record of page 2 of 273. Do you find that  
8 unusual?

9 A. I wish it was unique. I wish it  
10 was the only time I didn't put something in my  
11 time records that I actually did. But while I  
12 make every effort to put everything in, I'm  
13 sure that more than a few times over the course  
14 of my career I did not include everything in my  
15 time records.

16 Q. Okay. And what do you recall with  
17 respect to your conversation with Christopher  
18 Bush at the U.S. State Department?

19 A. The only information that I got  
20 from him -- he might have been the one to tell  
21 me about the press conference and that there  
22 had been a press release, and I'm pretty sure  
23 he's the person that gave me the name of  
24 Mr. Kashkett as the person who would have the

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1 information I was looking for, that the bank  
2 was looking for.

3 (Exhibit Fine-274 marked for  
4 identification and attached to the  
5 transcript.)

6 BY MR. COTTREAU:

7 Q. I'm going to show you what's been  
8 marked as Exhibit 274. Are these handwritten  
9 notes that relate -- well, let me ask you this  
10 question. Do you recognize this document?

11 A. Yes.

12 Q. And what is Exhibit 274?

13 A. Those are my handwritten notes from  
14 I believe July 12th, 1999.

15 Q. And do you think these handwritten  
16 notes reflect the discovery of Christopher Bush  
17 as a person that you wanted to reach out to?

18 A. Yes.

19 (Exhibit Fine-275 marked for  
20 identification and attached to the  
21 transcript.)

22 BY MR. COTTREAU:

23 Q. I show you what's been marked as  
24 Exhibit 275. Do you recognize Exhibit 275?

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1 A. Yes.

2 Q. What is Exhibit 275?

3 A. A copy of my handwritten notes from  
4 I believe July 15th, 1999.

5 Q. If I could have you turn to page  
6 DIB\_003222 of Exhibit 273.

7 A. Yes.

8 Q. There's a record on the middle of  
9 the page dated 7-15-99. Is that a record that  
10 relates to activities that you conducted on  
11 July 15th, 1999?

12 A. Yes.

13 Q. And can you tell me what activity  
14 is reflected on July 15, 1999 in your billing  
15 records?

16 A. Although misspelled, my telephone  
17 conversation with Steve Kashkett.

18 Q. And does it reflect that Steve  
19 Kashkett is the Middle East chief of the State  
20 Department counterterrorism section?

21 A. That is what I was told in advance  
22 and what he represented himself to be.

23 Q. Why did you reach out to the U.S.  
24 State Department?

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1                   A.     Because the information in The New  
2     York Times article appeared to have come from  
3     the State Department.   The State Department was  
4     the only agency going public through the press  
5     conference that Mr. Foley had on -- I believe  
6     it was July 8th.   So that's the agency that was  
7     up front, out in public.   We called them.

8                   Q.     And is the State Department part of  
9     the United States federal government?

10                  A.     Yes.

11                  Q.     And what are the responsibilities  
12     generally as you understand them to be of the  
13     United States State Department?

14                  A.     To manage our relations with other  
15     countries.

16                  Q.     Going back to your conversation on  
17     July 12th, the first day that you received the  
18     fax from Rob Ellison asking you to help with  
19     respect to the allegations made in the press  
20     concerning Dubai Islamic Bank and a possible  
21     connection to Osama bin Laden, you had a  
22     conversation with Christopher Bush.   What do  
23     you recall about that conversation?

24                  A.     I explained to him why I was

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1 calling, which was that the bank had been made  
2 aware of this article and the bank had  
3 conducted a search for anything in Osama bin  
4 Laden's name. We came up with nothing. We  
5 wanted to know if they had any information that  
6 could help identify any facts related to the  
7 allegations.

8 Q. Did you express any opinion or  
9 statement to Christopher Bush about whether the  
10 bank was willing to cooperate with the United  
11 States government?

12 A. Yes. Mr. Ellison asked me to --  
13 well, instructed me to make sure that the  
14 government knew that we wanted to do this in a  
15 cooperative way, that we took the allegations  
16 seriously, that we wanted to know what they  
17 were talking about. Because initially -- I  
18 mean, at that time, we had no idea where this  
19 was coming from.

20 Q. And did Christopher Bush at the  
21 U.S. State Department, during your conversation  
22 with him on July 12th, 1999, tell you anything  
23 about whether the allegations in the press were  
24 true or not about Dubai Islamic Bank?

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1                   A.    I don't think he had any  
2    information, and he did not provide me with any  
3    specific information. If I'm not mistaken, he  
4    is the person who referred me to Mr. Kashkett.

5                   Q.    If I could direct your attention to  
6    Exhibit 274 which are your handwritten notes  
7    from July 12th, 1999, there's a notation at the  
8    bottom of those notes. Can you read that for  
9    me, that starts with "public," I think?

10                  A.    Public affairs - counterterrorism,  
11    Joe Reap, 202-647-8682.

12                  Q.    Do you recall whether you ever  
13    spoke with Joe Reap?

14                  A.    I know I tried to get in touch with  
15    him. I can't tell you today whether I actually  
16    spoke to him or not. It was either him or  
17    Mr. Bush who gave me the information about  
18    Mr. Kashkett. But neither of them gave me any  
19    substantive information about the allegations.

20                  Q.    If I could direct your attention to  
21    Exhibit 275 which are your handwritten notes of  
22    your conversation with Steve Kashkett on July  
23    15th, 1999. What do those notes reflect?

24                  A.    The highlights of my conversation

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1 with Mr. Kashkett.

2 Q. And can you tell me everything that  
3 you recall about the conversation with Steve  
4 Kashkett at the U.S. State Department on July  
5 15th, 1999?

6 A. I identified myself, who I was  
7 representing, why I was calling, told him that  
8 the bank took the allegations seriously and  
9 wanted to work with the government of the  
10 United States to get this information, and if  
11 there was information to be gotten, to deal  
12 with it appropriately. He indicated that we  
13 would not likely find anything in the name of  
14 Osama bin Laden, that transactions would be --  
15 would have been done through a different  
16 name -- that's the reference to a "through  
17 cut" -- that we shouldn't be looking at  
18 international wire transfers but that it would  
19 be withdrawals, or possibly a wire transfer  
20 within the United Arab Emirates.

21 Q. And during the call, did you tell  
22 him that you had already, along with Rob  
23 Ellison, conducted some investigation into the  
24 allegations?

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1 A. Yes.

2 Q. And what did you tell him in that  
3 regard?

4 A. That we -- "we," meaning Rob  
5 Ellison, had informed me that he had -- or  
6 conducted an investigation into whether or not  
7 Osama bin Laden had an account at the bank or  
8 was the sender or recipient of any wire  
9 transfer. I understood at that point any kind  
10 of wire transfer, but it may have been  
11 international wire transfers.

12 Q. Did you ask Steve Kashkett, on July  
13 15th, 1999, for any information regarding any  
14 connection between Dubai Islamic Bank and Osama  
15 bin Laden?

16 A. Yes. That was the main purpose of  
17 the phone call was to find out if he knew or  
18 was willing to give us any information to  
19 assist in our investigation of those  
20 allegations.

21 Q. And what types of information might  
22 have been helpful to you in connection with  
23 investigating the allegations?

24 A. A name of a person, a name of a

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1 company, an account number, a date, in-coming  
2 wire, outgoing wire, the nature of the  
3 transaction. Really anything to get us  
4 started.

5 Q. And did Steve Kashkett, in response  
6 to your inquiries on July 15th, 1999, give you  
7 any information that the U.S. government  
8 possessed that could have been helpful?

9 A. No. I mean, he didn't give me any  
10 name, he didn't give me an account number, he  
11 didn't give me a date. The only information he  
12 gave me was that it was more likely than not a  
13 withdrawal from a bank account that they  
14 were -- they had reason to believe that it was  
15 a withdrawal from a bank account or a domestic  
16 wire transfer, meaning within the UAE.

17 Q. Did Steve Kashkett at the U.S.  
18 State Department, on July 15th, 1999, tell you  
19 any information about when the transactions  
20 that might have been under investigation  
21 occurred?

22 A. Not at all.

23 Q. And how did you leave it with  
24 Mr. Kashkett at the end of the phone call on

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1 July 15th, 1999?

2 A. Here I am, here's my number, here's  
3 my telefax number. If you learn of anything or  
4 become willing to share anything, please call  
5 me.

6 Q. And at any time during your  
7 engagement for Dubai Islamic Bank, did anyone  
8 at the U.S. government ever call you with any  
9 concerns about any accounts at Dubai Islamic  
10 Bank related to Osama bin Laden or terrorism  
11 generally?

12 A. No.

13 (Exhibit Fine-276 marked for  
14 identification and attached to the  
15 transcript.)

16 BY MR. COTTREAU:

17 Q. Let me show you what's been marked  
18 as Exhibit 276. Ask you to take a look at this  
19 document and tell me whether you recognize it.

20 A. I do.

21 Q. What is Exhibit 276?

22 A. It's a photocopy of a letter that I  
23 co-authored on behalf of Dubai Islamic Bank to  
24 The New York Times.

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1 Q. Did you send this letter at Exhibit  
2 276 to The New York Times?

3 A. Yes.

4 Q. Can you read the first sentence of  
5 the second paragraph of your letter?

6 A. DIB has never dealt directly with  
7 Osama bin Laden, and has no knowledge or reason  
8 to believe that anyone acting on bin Laden's  
9 behalf had been laundering his money through  
10 DIB.

11 Q. When you wrote and sent that  
12 statement to The New York Times, did you  
13 believe it to be true?

14 A. Yes.

15 Q. At the end of Exhibit 276, you say,  
16 Accordingly, we demand that you print a  
17 retraction of the portions of the article  
18 listed above.

19 Did The New York Times retract its  
20 statements?

21 A. No.

22 Q. Do you think they took your request  
23 for a retraction seriously?

24 MR. GOLDMAN: Objection.

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1 what people would remember would be the name of  
2 the bank and Osama bin Laden and terrorist  
3 financing, even if the bank legally was able to  
4 clear its name.

5 Q. After the decision not to sue The  
6 New York Times, did you ever have any other  
7 discussion with Rob Ellison about the U.S.  
8 government contacting Dubai Islamic Bank  
9 seeking its cooperation?

10 A. Yes.

11 Q. What do you recall?

12 A. Sometime in 2001, Rob passed along  
13 that there had been information provided by the  
14 United States government, either directly to  
15 DIB or more likely through the Central Bank,  
16 which led to the bank's closing of two  
17 accounts.

18 Q. Do you know what those accounts  
19 were?

20 A. No, I don't.

21 Q. Do you know whether those accounts  
22 related in any way to Osama bin Laden?

23 A. No.

24 Q. Did Rob Ellison ever tell you that

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1 the Dubai Islamic Bank was reluctant to  
2 cooperate with the U.S. government?

3 A. No. To the contrary.

4 Q. What did he tell you in that  
5 regard?

6 A. That the bank wanted to know if  
7 there were any facts to support the allegations  
8 that were made, starting with the newspaper  
9 articles; that we opened lines of communication  
10 through the U.S. lawyers, me, through the bank;  
11 and that the message that they were giving to  
12 the Central Bank and to the Ruler's office in  
13 Dubai was, we want to cooperate. If there's  
14 any account that's open that shouldn't be open,  
15 tell us about it, tell us how to find it. If  
16 you know what it is, tell us the account. If  
17 you have any information that could lead us to  
18 helping find it, please give us that  
19 information.

20 Q. Other than the U.S. government  
21 approaching either directly or indirectly Dubai  
22 Islamic Bank to close two accounts, are you  
23 aware of any other request by the U.S.  
24 government to Dubai Islamic Bank?

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1 A. No.

2 Q. At any time during your  
3 representation of Dubai Islamic Bank, did you  
4 become aware of bank accounts in Osama bin  
5 Laden's name or that were otherwise connected  
6 to Osama bin Laden?

7 A. No.

8 (Exhibit Fine-277 marked for  
9 identification and attached to the  
10 transcript.)

11 BY MR. COTTREAU:

12 Q. Let me show you what's been marked  
13 as Exhibit 277. It's a document Bates stamped  
14 DIB\_003187 through 3189. Ask you to take a  
15 look at it and let me know whether you  
16 recognize this document.

17 MR. GOLDMAN: What number was this  
18 again?

19 MR. COTTREAU: 277.

20 A. I do.

21 Q. What is Exhibit 277?

22 A. It is a draft -- it's a photocopy  
23 of a draft of a letter to Mr. Liptak, who was  
24 the attorney who responded on behalf of the

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1                   The New York Times thinks?

2                   MR. COTTREAU: I'm just going to  
3                   restate the question.

4                   Q.     Do you think The New York Times was  
5                   being fair to Dubai Islamic Bank?

6                   MR. GOLDMAN: Objection. What does  
7                   the word "fair" mean?

8                   A.     I didn't think they were -- no, I  
9                   did not think they were being fair.

10                  Q.     Why not?

11                  A.     We knew that the language about the  
12                  bank having issues or having a need to be  
13                  cleaned up was the direct and exclusively, as  
14                  far as we knew, the result of the affair with  
15                  Sissoko and Ayyoub, and it had nothing to do  
16                  with Osama bin Laden. And we wanted to make  
17                  that point to The New York Times because we  
18                  thought that the bank was being portrayed in a  
19                  false light based on the interweaving of  
20                  factually true information about the bank being  
21                  cleaned up, and then information which we  
22                  believed to be untrue about any connection with  
23                  Osama bin Laden.

24                  Q.     If I could direct your attention to

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1 the fourth paragraph of Exhibit 277 on page  
2 DIB\_003187, it says in that draft, First, we  
3 would like you to know unequivocally that in  
4 the wake of the allegations appearing in your  
5 newspaper --

6 Are those allegations the  
7 allegations from July 1999?

8 A. Yes.

9 Q. Continuing, the draft letter says,  
10 the banking authorities in Dubai have conducted  
11 an exhaustive search of the records of Dubai  
12 Islamic Bank and have found no indication that  
13 Osama bin Laden was ever a customer of the  
14 bank.

15 Do you see that?

16 A. I do.

17 Q. Did you believe that to be true in  
18 November of 2001?

19 A. Yes, I did.

20 Q. It further says that the banking  
21 authorities, have found no indication that  
22 Osama bin Laden ... ever had a relationship  
23 with the bank, much less one approved -- I'm  
24 sorry -- arranged with the approval of the

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1 officials who control the bank.

2 Do you see that?

3 A. Yes.

4 Q. Did you believe that to be true in

## 5 November of 2001?

6 A. Yes.

7 Q. When it says "banking authorities"  
8 in this draft letter, what does that mean to  
9 you?

## 10 A. The Central Bank

11 Q. The Central Bank of the UAE, United  
12 Arab Emirates?

13                   A.     Yes.   The regulator for Dubai  
14    Islamic Bank

15 Q. Do you know how Ed Licitra learned  
16 that the UAE Central Bank in Dubai conducted an  
17 exhaustive search of the records of Dubai  
18 Islamic Bank and never found any connection to  
19 Osama bin Laden?

20                   A.    Either through me or Rob Ellison

21 Q. Did you send the draft at Exhibit  
22 277 to The New York Times?

23 A. No

24 O. Why not?

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1                   Q.     As a man of Jewish religion, how  
2     were you treated by Dubai Islamic Bank?

3                   MR. GOLDMAN: Objection.

4                   A.     I don't think it was an issue in  
5     any way. I never felt treated unprofessionally  
6     in any way by the bank.

7                   Q.     Did you ever hear anybody at the  
8     bank say anything anti-Semitic about you or  
9     other people of the Jewish faith?

10                  A.     No.

11                  Q.     Did anyone at the bank, Dubai  
12    Islamic Bank, ever try to convert you to Islam?

13                  A.     Oh, no. No.

14                  Q.     Did anybody at the bank ever make  
15    inappropriate comments about the Jewish faith?

16                  A.     No.

17                  Q.     How many years did you work with  
18    Dubai Islamic Bank, approximately?

19                  A.     Four.

20                  Q.     And in those four years of working  
21    with Dubai Islamic Bank, give or take some  
22    time, did you ever have any reason to believe  
23    that Dubai Islamic Bank supported terrorism of  
24    any kind?

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1 A. No.

2 Q. In all of the years that you worked  
3 with Dubai Islamic Bank, did you ever have any  
4 reason to believe that Dubai Islamic Bank  
5 supported violence of any kind?

6 A. No.

7 Q. And in all of your years of working  
8 with Dubai Islamic Bank, did you ever have any  
9 reason to believe that the bank wanted to  
10 assist terrorists in any way?

11 A. No.

12 MR. COTTREAU: Thank you, Judge.

13 MR. GOLDMAN: Give me two minutes  
14 for a bathroom break.

15 VIDEO OPERATOR: We are now going  
16 off the video record. The time is  
17 12:56.

18 (Recess from 12:56 p.m. until  
19 1:03 p.m.)

20 VIDEO OPERATOR: We are now going  
21 back on the video record. The time is  
22 1:03.

23 EXAMINATION

24 BY MR. GOLDMAN: